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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/560,124	04/24/2006	Dietmar Baumann	10191/4379	2761
26646 7590 04/24/2008 KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004			EXAMINER LOTTICH, JOSHUA P	
			ART UNIT 2113	PAPER NUMBER
			MAIL DATE 04/24/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/560,124	<b>Applicant(s)</b> BAUMANN ET AL.	
	<b>Examiner</b> JOSHUA P. LOTTICH	<b>Art Unit</b> 2113	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 April 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) 1-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17-27 and 29-32 is/are rejected.
- 7) ☒ Claim(s) 28 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/8/2005</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Information Disclosure Statement*

1. The information disclosure statement filed 12/8/2005 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

### *Specification*

#### Content of Specification

- (a) Title of the Invention: See 37 CFR 1.72(a) and MPEP § 606. The title of the invention should be placed at the top of the first page of the specification unless the title is provided in an application data sheet. The title of the invention should be brief but technically accurate and descriptive, preferably from two to seven words may not contain more than 500 characters.
- (b) Cross-References to Related Applications: See 37 CFR 1.78 and MPEP § 201.11.

2. The disclosure is objected to because of the following informalities: There is no reference to the prior filed applications in the first sentence of the application. The later-filed application must contain a reference to the prior-filed application in the first sentence(s) of the specification or in an application data sheet, for a benefit claim under 35 U.S.C. 120, 121, or 365(c), and also for a benefit claim under 35 U.S.C. 119(e). (MPEP 201.11). Appropriate correction is required.

***Claim Objections***

3. Claims 30-32 are objected to because of the following informalities:
4. In claims 30 and 32, "An arrangement for monitoring", "first arrangement", and "second arrangement" are unclear as to whether a device or a way of arranging components is being claimed, where a way of arranging components is non-statutory matter. Examiner also notes that there is no support in the disclosure for an arrangement, a first arrangement, or a second arrangement.
5. In claim 31, "The device as recited in claim 30" has no antecedent basis in the claims, as an arrangement is claimed in claim 30.
6. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:  

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
8. Claim 27 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
9. Claim 27 recites the limitation "the outcome data" in first two lines. There is insufficient antecedent basis for this limitation in claims 17, 18, and 27.

***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 17-26 and 29-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Cutts, Jr. et al. (U.S. Patent No. 4,965,717) referred hereinafter “Cutts”.

12. Regarding claims 17, 30, and 32, Cutts disclose(s) a method and device for monitoring a distributed system (fig. 1) having a plurality of user units (CPUs 11-13, fig. 1, col. 3, ln. 65 – col. 4, ln. 11) that are connected by one bus system (acknowledge/status bus 33, fig. 1, col. 5, ln. 16-30), comprising:

providing at least a selected number of the user units as monitoring user units (col. 5, ln. 26-30, each of the CPUs 11-13 monitor the status of the other CPUs);

filing process data of at least one monitored user unit in data areas of memory units of the bus system (col. 2, ln. 45-57, abstract),

wherein the monitoring user units have access to the data areas of the memory units (col. 2, ln. 45-57, abstract); and

evaluating the process data by the monitoring user units (detecting differences in interrupt cause, abstract, compare operation, col. 2, ln. 53-57, col. 32, ln. 35-52).

13. Regarding claims 18 and 31, Cutts disclose(s) wherein each of the data areas is uniquely allocated to a corresponding monitored user unit (col. 2, ln. 53-57, abstract, col. 31, ln. 61-64).

14. Regarding claim 19, Cutts disclose(s) wherein the corresponding monitored user unit does not have access to the uniquely allocated data area (can be read by the others, col. 2, ln. 55-57).

15. Regarding claim 20, Cutts disclose(s) wherein the data areas are distributed over at least two memory units (memory modules 14 and 15, fig. 1, col. 4, ln. 5-8, col. 5, ln. 31-35, col. 31, ln. 46 - col. 32, ln. 5).

16. Regarding claim 21, Cutts disclose(s) wherein at least a part of the data areas is provided simultaneously in each memory unit (col. 31, ln. 47-52).

17. Regarding claim 22, Cutts disclose(s) wherein each monitoring user unit generates outcome data (col. 32, ln. 35-52, the outcome of the vote (i.e. agree or disagree)) as a function of the evaluation of the process data of the at least one monitored user unit.

18. Regarding claim 23, Cutts disclose(s) wherein the outcome data include a fault information (col. 32, ln. 35-52, the fault information is if the memory module or a CPU is faulty).

19. Regarding claim 24, Cutts disclose(s) wherein the outcome data include information on responsive fault measures (col. 32, ln. 35-52, the responsive fault measure is whether to turn off a memory module or a CPU).

20. Regarding claim 25, Cutts disclose(s) wherein the outcome data are transmitted via the one bus system to a communications controller (bus interface 56, fig. 2, col. 7, ln. 29-35) of the of the monitored user unit (col. 17, ln. 7-13).

21. Regarding claim 26, Cutts disclose(s) wherein the outcome data are filed in the data areas (col. 17, ln. 4-13, the status returned on bus 33 is sent from the memory module's vote circuit 100, thus it was filed in the data areas).

22. Regarding claim 29, Cutts disclose(s) wherein, as a part of the monitoring, a weighted fault determination is made, and wherein the weighted fault determination is made based on an  $n$  of  $m$  outcome data,  $m$  being the number of monitoring user units for a selected monitored user unit,  $m > 2$ , and  $n > m/2$  (col. 17, ln. 13-15, the number of CPUs being monitored is 3 and the number needed to agree for a decision is two, thus  $m = 3$ ,  $n = 2$ ,  $m(3) > 2$ , and  $n(2) > m(3/2)$ , col. 32, ln. 47-52).

### ***Allowable Subject Matter***

23. Claim 28 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

24. The following is a statement of reasons for the indication of allowable subject matter: Prior art was not found that explicitly teaches or fairly suggests wherein the outcome data are filed in the data areas allocated to the corresponding monitored user units, as outlined in dependent claim 28.

### ***Conclusion***

25. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSHUA P. LOTTICH whose telephone number is (571)270-3738. The examiner can normally be reached on M-Th 7:30am-5pm, Alternating Fridays 7:30am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert W. Beausoliel can be reached on (571)272-3645. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Marc Duncan/  
Primary Examiner, Art Unit 2113

Marc Duncan  
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